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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,880	02/12/2001	Luis R. Lopez	052102-1011	1248
24504	7590	08/27/2004	EXAMINER	
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 100 GALLERIA PARKWAY, NW STE 1750 ATLANTA, GA 30339-5948			VO, TED T	
			ART UNIT	PAPER NUMBER
			2122	

DATE MAILED: 08/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/783,880

Applicant(s)

LOPEZ, LUIS R.

Examiner

Ted T. Vo

Art Unit

2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

#### DETAILED ACTION

1. This action is in response to Applicants' Amendments filed on 5/14/04, which replies the Office Action Mailed date: 1/16/04.

Claims 1-6, 8-9, 13-14, 16-20 are amended.

Regarding these amendments:

The objection of Claims 3, 4, 5, 9, 13, 14, 18-19 because of misspelling is withdrawn.

The rejection of Claims 16-20 under 35 U.S.C. 112, first paragraph, as being identified as Single means is withdrawn.

The rejections of Claims 1-10 and 16-20 under 35 U.S.C. 101 are withdrawn.

Claims 1-20 remain pending and stand finally rejected as being anticipated by Muenzel.

#### ***Response to Arguments***

2. Applicant's arguments in Remarks/Arguments section (pages 5-7) with respect to Claims 1-20 rejected under 102(e) as being anticipated by Muenzel, which has effective filing date, 3-2000, have been fully considered.

Applicants basically argue the claimed elements in the independent Claims 1, 6, 11, and 16 are supported under in the parent application, 08/790,084.

For example, Applicants point out the citations in the parent application (quoted passages in pages 5-6), for teaching claimed elements "*Use hierarchical Flow Structure Markup Language grammar to encode the algorithm flow information*" (re: Remarks/Arguments: Page 5, portion 2), "*Use hierarchical Flow Structure Markup Language grammar to encode the textual source code*" (re: Remarks/Arguments: Page 6, portion 3), and "*Use hierarchical Flow Structure Markup Language grammar to create the algorithm flow information*" (re: Remarks/Arguments: Page 6, portion 4).

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Examiner has reviewed the parent application 08/790,084 and respectfully disagrees to the Applicants' referents.

First of all, it is noted that the quoted passages are incorrectly cited as they are in the parent application No. 08/790,084. The pages and cited paragraphs are not matched.

After all, the quote passages given by Applicants are referred to HPL, "High-level Procedural Language". Nowhere in these quoted passages disclose/teach "hierarchical Flow Structure Markup Language grammar" used in these present claims. More importantly, nowhere in the parent application discloses "FSML grammar" as described in this current Specification. For example FSML grammar, which is described in this current specification, pages 12-14, has not found in the parent application. It is noted that programming language such as Pascal, C, or C++ is HPL; however, neither Pascal, nor C, nor C++ is "Markup Language".

Clearly, the critical functionality of "Markup Language" used in independent Claims 1, 6, 11, 16, as Flow Structure Markup Language grammar, and in dependent Claims 3, 4, 8, 9, 13, 14, 18, and 19, as XML, are newly subject matters and distinct over the parent application No. 08/790,084, because the description of this Markup Language is not found the in the parent application.

The subject matters that are not included in the parent application, but newly added as new subject matters, and critical used and claimed in the child application fail to antedate a reference filed before the child application. Thus, the rejection of Muenzel, which has efective filing date, 3-2000, is proper.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Muenzel, (US pub No. 2002/0004804 A1), effective filing date, 3-2000, priority on Provisional Application No. 60/192,147.

Given the broadest reasonable interpretation of followed claims in light of the specification.

As per claim 1:

Muenzel discloses a method directed to the creation of a browser-readable representation of an industrial control code (see page 2, paragraphs 0014 and 0025) by converting the industrial control code appended in a flowchart into the markup language such as XML (see FIG. 2 and see page 4, paragraph 0042, 'it would be converted, at 62, to markup format').

Muenzel's teaching covers, "A system for developing an algorithmic representation based on a textual source code, comprising:

*a microprocessor programmed to:*

*derive algorithmic flow information from the textual source code, (See page 2, paragraph 0014, referring to reference's citation: "The graphical programming language code comprises an editor adapted to permit the user to create industrial automation control code": textual source code. See the flowchart in figure 3, and see page 4, lines 10-11 in paragraph 0043, 'appended source code'); and*

*use hierarchical Flow Structure Markup Language grammar to encode the algorithmic flow information and the textual source code to create the algorithmic representation" (See FIG. 2, referring to*

the combination of reference numerals 52 and 60 for "*algorithmic flow information and the textual source code to*", and reference numeral 62, 'CONVERT TO MARKUP LANGUAGE').

As per claim 2:

Muenzel discloses, "*The system of claim 1, wherein the algorithmic representation is viewable as a flowchart and wherein the flowchart can be graphically edited*" (See FIG. 2, referring to reference numerals 52 and 28).

As per claim 3:

Muenzel discloses, "*The system of claim 1, wherein the Flow Structure Markup Language grammar is Extended Markup Language (XML)-compliant Flow Structure Markup Language grammar*" (See FIG. 2, referring to reference numeral 64).

As per claim 4:

Muenzel discloses, "*The apparatus of claim 1, wherein the Flow Structure Markup Language grammar is non-XML-compliant Flow Structure Markup Language grammar*" (See page 3, paragraphs 0032 and 0033, referring to 'graphical programming language' and 'markup format'. The term 'markup format' covers a subset of grammars that is non-XML; and the term 'graphical programming language' covers the grammar that it not XML grammar).

As per claim 5:

Muenzel discloses, "*The apparatus of claim 2, wherein editing the flowchart results in the textual source code being automatically edited*" (See FIG. 1, reference numeral 12).

As per claim 6: Claim 6 is a method claim that has the limitation corresponding to the claim 1. Claim 6 is rejected in the same reason as set forth in connecting to the rejection of claim 1.

As per claim 7: Claim 7 is a method claim that has the limitation corresponding to the claim 2. Claim 7 is rejected in the same reason as set forth in connecting to the rejection of claim 2.

As per claim 8: Claim 8 is a method claim that has the limitation corresponding to the claim 3. Claim 8 is rejected in the same reason as set forth in connecting to the rejection of claim 3.

As per claim 9: Claim 9 is a method claim that has the limitation corresponding to the claim 4. Claim 9 is rejected in the same reason as set forth in connecting to the rejection of claim 4.

As per claim 10: Claim 10 is a method claim that has the limitation corresponding to the claim 5. Claim 10 is rejected in the same reason as set forth in connecting to the rejection of claim 5.

As per claim 11: Claim 11 is a computer program embodied in a computer-readable medium claim that has the limitation corresponding to the claim 1. Claim 11 is rejected in the same reason as set forth in connecting to the rejection of claim 1.

As per claim 12: Claim 12 is a computer program embodied in a computer-readable medium claim that has the limitation corresponding to the claim 2. Claim 12 is rejected in the same reason as set forth in connecting to the rejection of claim 2.

As per claim 13: Claim 13 is a computer program embodied in a computer-readable medium claim that has the limitation corresponding to the claim 3. Claim 13 is rejected in the same reason as set forth in connecting to the rejection of claim 3.

As per claim 14: Claim 14 is a computer program embodied in a computer-readable medium claim that has the limitation corresponding to the claim 4. Claim 14 is rejected in the same reason as set forth in connecting to the rejection of claim 4.

As per claim 15: Claim 15 is a computer program embodied in a computer-readable medium claim that has the limitation corresponding to the claim 5. Claim 15 is rejected in the same reason as set forth in connecting to the rejection of claim 5.

As per claim 16: Claim 16 is a method claim that has the limitation corresponding to the claim 1. Claim 16 is rejected in the same reason as set forth in connecting to the rejection of claim 1.

As per claim 17: Claim 17 is a method claim that has the limitation corresponding to the claim 2. Claim 17 is rejected in the same reason as set forth in connecting to the rejection of claim 2.

As per claim 18: Claim 18 is a method claim that has the limitation corresponding to the claim 3. Claim 18 is rejected in the same reason as set forth in connecting to the rejection of claim 3.

As per claim 19: Claim 19 is a method claim that has the limitation corresponding to the claim 4. Claim 19 is rejected in the same reason as set forth in connecting to the rejection of claim 4.

As per claim 20: Claim 20 is a method claim that has the limitation corresponding to the claim 5. Claim 20 is rejected in the same reason as set forth in connecting to the rejection of claim 5.



**Conclusion**

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ted T. Vo whose telephone number is (703) 308-9049. The examiner can normally be reached on 8:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (703) 305-4552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTV  
Patent Examiner  
Art Unit 2122  
August 19, 2004



ANTONY NGUYEN-BA  
PRIMARY EXAMINER